

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE D. RONALD HYDE,

NO. 166.

FIRST AMENDED NOTICE OF
FORMAL PROCEEDINGS

To D. Ronald Hyde, a judge of the Alameda County Municipal Court from December 20, 1982 to July 30, 1998, and a judge of the Alameda County Unified Superior Court from July 31, 1998 to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and improper action within the meaning of article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

COUNT ONE

On a date between approximately September 2000 and September 2001, you asked a traffic clerk to obtain information from the Department of Motor Vehicles (DMV) regarding the identity of a driver that you said had cut you off. The clerk obtained the information by accessing computerized DMV records that were not available to the general public, and gave it to you. Obtaining this information was not related to court business.

You had the clerk access the DMV records despite having been publicly censured by the Commission on Judicial Performance in 1996 for conduct that included asking court employees to access DMV records for the purpose of obtaining information that was not related to court business. Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A and 3B(11).

COUNT TWO

Arthur Sims became the Alameda County Court Executive Officer on October 31, 2000. During his first week as the executive officer, he came to the Pleasanton courthouse to meet the judges and court staff. Following a tour of the courthouse, Mr. Sims was taken to a break room in the civil clerk's area to meet court staff. You came to the break room and met Mr. Sims for the first time. In the presence of female court employees, you told Mr. Sims a story about a former court employee being engaged in a "blow job" in the courthouse parking lot.

You made this comment despite having been publicly censured by the Commission on Judicial Performance in 1996 (the same censure referenced in count one) for conduct that included making sexually related comments toward female court employees. Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A and 3B(4).

COUNT THREE

In December 1999, your daughter was involved in a motor vehicle accident. She sued the other driver in small claims court in the Pleasanton courthouse where you were assigned. On December 21, 2000, the case was filed as case number 2000-100494, and set for night court on January 23, 2001. You were informed of the date.

In early January 2001, the judges' night court assignments for the year were made and the judges were informed. You were assigned to hear the small claims calendar for the night of January 23, 2001. You knew that your daughter's case was scheduled to be heard by you.

Because you were assigned to hear your daughter's case, on January 8, 2001, a clerk left a message for your daughter saying that the date for her case would have to be rescheduled. Your daughter told you about the message. On January 9, 2001, despite your conflict of interest, you told the clerk to keep the scheduled date of January 23, 2001, and thereafter you chose the judge pro tem to handle your daughter's case.

On or shortly before January 23, 2001, you called Attorney John Harding, with whom you were acquainted through the Rotary Club, and asked him to act as judge pro tem for the small claims calendar for the night of January 23, 2001, which he agreed to do. Mr. Harding heard your daughter's case and rendered judgment in her favor.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A and 3E(1).

COUNT FOUR

On June 14, 2000, in case number 94311, you sentenced defendant Eddie Streeter on a charge of misdemeanor injury to a child. The defendant's sentence included three years of court probation. In a letter to you dated June 13, 2001, the

defendant asked you to “consider the conditions of his court order and probation fully satisfied.” The letter came to the Pleasanton court when you were on vacation. On June 13, 2001, Judge Walker handled the matter in court with a deputy district attorney present. Judge Walker granted the defendant’s request for early termination of probation, and dismissed the action pursuant to Penal Code section 1203.4.

After returning from vacation, you read and considered the defendant’s letter of June 13, 2001, without being aware that another judge had already handled the matter. Therefore, you believed that you were taking judicial action when you responded to defendant’s letter by writing him a letter dated July 5, 2001. In your letter, you told the defendant that you were terminating his probation on an early basis, and enclosed a form for him to complete in order to obtain a dismissal of the action pursuant to Penal Code section 1203.4. You did not give the district attorney’s office notice or an opportunity to respond before making your stated decision to grant the defendant’s request for early termination of probation.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A and 3B(7).

COUNT FIVE

In July 2000, defendant Karissa Kernan was sentenced by Judge Walker on a misdemeanor charge of alcohol related reckless driving, case number 94765. Her sentence included three years of court probation. You knew the defendant’s father, an attorney, through mutual participation on community projects and his service as a judge pro tem, and were acquainted with the family.

On or shortly before October 23, 2001, you received an ex parte telephone call from defendant Kernan. She told you that she wanted to enlist in the military, but could not do so unless her probation were terminated. After this telephone

conversation, defendant Kernan went to the clerk's office and her case was added to your calendar. On October 23, 2001, Ms. Kernan appeared in court and requested that you terminate her probation early because she was entering the military. You did not disclose the telephone call from the defendant or your acquaintance with the defendant or her family. You granted her request and terminated her probation.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 3B(7) and 3E(2).

COUNT SIX

On August 24, 2001, you presided over the arraignment calendar. Defendant Beau Dempsey, case number 99961, was scheduled for arraignment on a misdemeanor domestic violence charge. The defendant, who was in custody, was disruptive and reportedly made threatening gestures at his wife (the alleged victim in the domestic violence charge), who was in the audience. You became angry with the defendant. His arraignment was postponed until August 27, 2001.

On or about August 27, 2001, you had an ex parte conversation with the defendant's wife in a courthouse hallway. The defendant's wife wanted to serve the defendant with marital dissolution papers. You accompanied the defendant's wife to the clerk's window and spoke to the clerk on her behalf about obtaining a dissolution fee waiver order that day. A commissioner's signature on the fee waiver order was obtained that day, and you brought the signed fee waiver order to the clerk. At the time, you were still presiding over Mr. Dempsey's criminal case; you recused yourself on August 29, 2001.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2) and 3B(7).

COUNT SEVEN

On November 14, 2001, you presided over the arraignment calendar. Defendant Christopher Plute, case number 100837A, appeared for arraignment on felony drug charges. Co-defendant Nicole Araiza, case number 100837B, was scheduled for arraignment on the same charges at a later date, but was present in the audience. When the case was called, defendant Plute's attorney mentioned that defendant Araiza was present in court. Araiza was called forward. You read her the charges, referred her to the public defender's office, raised her bail from \$60,000 to \$350,000 and remanded her.

On November 15, 2001, defendant Araiza filed a peremptory challenge against you and you were disqualified. Her case was transferred to Judge Walker. On November 15, 2001, shortly after you were disqualified, you telephoned Judge Walker about the case. You asked Judge Walker to "back me up" about the bail increase, or words to that effect. (Later on November 15, 2001, Judge Walker granted defendant Araiza's motion to reduce bail to \$60,000, which was not opposed by the deputy district attorney.)

Your conduct after you were disqualified was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(2) and 3(B)7.

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall

conform in style to subdivision (c) of rule 15 of the Rules on Appeal, contained in the California Rules of Court. The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: 10/17/02

/s/
RISE JONES PICHON
CHAIRPERSON